IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3871 OF 1990

Sou.Shevantabai Anna Thorat,)
Age 55 yrs.,Occ.Household,)
residing at 65, Ganj Peth,Pune-2)...Petitioner.
(Orig.Plaintiff)

V/s.

Shri Nivrutti Kisan Gholap,)
since deceased by his legal)
and representatives _)
a) Sunanda Nivrutti Gholap)
age 55 yrs, 923,Bhavani)
Peth, Pune 411 042.)
)
b) Sou.Bharati Vijay Lad.)
age 30 years,R/O N-9, Kk-25/3)
New SIDCO,Nashik.)
)
c) Rahul Nivrutti Gholap)
age 27 years, 923,Bhavani)
Peth,Pune 411 042)
)
d) Atul Nivrutti Gholap.)
age 25 years,923,Bhavani)
Peth,Pune 411 042)

e) Urmila Nivrutti Gholap)
age 22 years, 923,Bhavani)
Peth,Pune 411 042.)...Respondents.

Shri V.S.Gokhale, Advocate for Petitioner.
Shri S.R.Page, Advocate for Respondents.

CORAM: D.G.KARNIK,J

DATE : 23rd August,2004.

P.C. :

1. By this petition, the Petitioner Landlord

challenges the Judgment and Order dated 18th December, 1989 passed by the learned IV Additional District Judge, Pune allowing the Civil Appeal No.159 of 1986 and thereby dismissing the Petitioner's suit for possession.

2. The petitioner is a landlord and the respondents are the tenants of one room situated on the first floor of the property bearing House No.923, Bhavani Peth, Pune, The said suit house was purchased by the Petitioner on 27th May, 1981 from one Chandrabhagabai Thorat and her brother Janardhan Dhondiba Nakode. After the purchase the petitioner filed a suit bearing Civil Suit No.2475 of 1982 against the respondents for possession under the ground of reasonably and bonafide requirement and few other grounds . The trial Court passed a decree for possession against the respondents on the ground that the petitioner requires the suit premises reasonably and bonafide for her own use and occupation. The appeal filed by the respondents was allowed and the petitioner's suit was dismissed by the District Court, Pune by an order dated 18th December, 1989. That Judgment is impugned in this petition.

3. Learned Counsel for the petitioner submits

that there are 20 members in the family of the petitioner who possesses only one room in the suit house. The ration card produced by the petitioner in the trial Court shows that number of members in the petitioner's family are only seven. Learned Counsel for the petitioner submits that there is another ration card showing remaining members of the family. No explanation has been offered why two separate ration cards were obtained. The petitioner has admitted that she also owns House No. 813, Guruwar Peth. The petitioner is in possession of two rooms in the said house. In addition, the petitioner is a tenant occupying two rooms in House No. 609, Guruwar Peth. Learned Counsel for the Petitioner submits that House No.609, Guruwar Peth is in dilapidated condition and the landlord of that property wants possession of the said premises. No evidence was adduced before the trial Court to show that the landlord had demanded the possession of the two rooms in occupation of the petitioner in House No.609 Guruwar Peth. No notice was issued by the landlord nor any suit has been filed by him. According to the petitioner, she is in possession of only one room in the suit house. However, Suresh, son of the petitioner admitted in the cross-examination that they are in possession of the two rooms in the suit house. Thus the petitioner is

in possession of two rooms in the suit house and two rooms in House No.609, Guruwar Peth and two rooms in House No.813 Guruwar Peth. The appellate Court has held that the petitioner does not require suit house reasonably and bonafide. The view taken by the appellate Court is a possible view and needs no interference. The trial Court as well as the Appellate Court have concurrently rejected the petitioner's claim for possession on other grounds. The learned Counsel for the Petitioner is unable to show any error in rejecting the claim of petitioner on the other grounds and they are not pressed before me.

5. In the circumstances, there is no merit in the petition. Hence petition is hereby dismissed. Rule discharged. No costs.

(D.G.KARNIK,J)